IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Criminal Rev. No.2423 of 2005
Date of decision: 16.01.2007

Bikkar Singh

-----Petitioner.

Vs.

State of Punjab and others.

-----Respondents.

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE H.S. BHALLA

Present: Mr. T.S. Sangha, Advocate
for the petitioner.

Adarsh Kumar Goel, J.

This revision petition has been filed by the complainant against the order of acquittal of respondents No.2 to 8 of the charges under Sections 307/148/149 IPC and 27 of the Arms Act.

The complainant-petitioner lodged a report on 12.10.2000, to the effect that on account of land dispute with Malkiat Singh and Jagtar Singh, Jagtar Singh and Malkiat Singh, accused, raised a lalkara that the complainant will not be allowed to go scot free after taking possession of the land. Darshan Singh, accused armed with .12 bore licenced gun, Gurmel Singh, Jarnail Singh and two sons of Jarnail Singh armed with dangs also raised lalkaras. Darshan Singh fired from his gun, hitting the complainant and Mukhtiar Singh. They were carried to the hospital, where a cross-case was already registered on the statement of

injured Jarnail Singh, accused. A cross-case was also registered on the statement of the petitioner.

In the cross-case, Mukhtiar Singh brother of the petitioner, stands convicted while two co-accused have been acquitted. Application for leave to appeal, challenging the acquittal, stands declined by a separate order of this Court of even date passed in Criminal Misc. No.514-MA of 2005 (***State of Punjab v. Sarban Singh and others)***.

While convicting Mukhtiar Singh brother of the petitioner, the trial Court recorded the finding that Mukhtiar Singh's party i.e. the petitioner's party was the aggressor. For the same reason, the trial Court has accepted the plea of the respondents of private defence. Accordingly, the respondents have been acquitted.

We have heard learned counsel for the petitioner and perused the record.

Reasons given by the trial Court for acquitting the respondents No.2 to 8, holding that the said respondents caused injuries in exercise of right of private defence and the petitioner's side was aggressor, cannot be held to be perverse or unreasonable so as to call for interference and accept the plea in exercise of revisioinal jurisdiction to interfere with the order of acquittal.

The parameters for interfering with the order of acquittal are well-known and reference be also made to a recent judgment of the Hon'ble Supreme Court in ***Jaswant Singh v. State of Haryana,*** **AIR 2000 SC 1833**, wherein it was observed:-

> "21**.** The principle to be followed by appellate courts considering an appeal against an order of acquittal is to interfere only when there are compelling and substantial reasons for doing so. If the order is clearly unreasonable it is a compelling reason for interference (see *Shivaji Sahabrao Bobade* v. *State of Maharashtra,* (1973) 2 SCC 793 : AIR 1973 SC 2622: 1973 Cri 1783)). The principle was elucidated in *Ramesh Babulal Doshi* v. *State of Gujarat,* (1996) 9

SCC 225: 1996 AIR SCW 2438: AIR 1996 SC 2035 (1996 Cri LJ 2867):

"While sitting in judgment over an acquittal the appellate court is first required to seek an answer to the question whether the findings of the trial court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellate court answers the above question in the negative the order of acquittal is not to be disturbed. Conversely, if the appellate court holds, for reasons to be recorded, that the order of acquittal cannot at all be sustained in view of any of the above infirmities it can then and then only reappraise the evidence to arrive at its own conclusions."

Accordingly, this revision petition is dismissed.

(ADARSH KUMAR GOEL)
JUDGE

January 16, 2007
ashwani

(H.S. BHALLA)
JUDGE